

08/22/01

JC966 U.S. PTO

08-24-01

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Please type a plus sign (+) inside this box [+]

PTO/SB/05 (11-00)

Approved for use through 10/31/2002. OMB 0651-0032

Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**UTILITY PATENT APPLICATION TRANSMITTAL**

(Only for new nonprovisional applications under 37 CFR 1.53(b))

Attorney Docket No. 004683.P005

(maximum 12 characters)

First Named Inventor Guy Riddle

Title: A METHOD FOR MEASURING NETWORK DELAY USING GAP TIME

Express Mail Label No. EL617183896US

ADDRESS TO: Assistant Commissioner for Patents  
Box Patent Application  
Washington, D. C. 20231

**APPLICATION ELEMENTS**

See MPEP chapter 600 concerning utility patent application contents.

1. ☒ **Fee Transmittal Form (e.g., PTO/SB/17)**  
(Submit an original, and a duplicate for fee processing)
2. ☐ **Applicant Claims Small Entity Status. (37 CFR 1.27)**
3. ☒ **Specification (Total Pages 26)**  
(preferred arrangement set forth below)
  - Descriptive Title of the Invention
  - Cross Reference to Related Applications
  - Statement Regarding Fed sponsored R & D
  - Reference sequence listing, a table,  
or a computer program listing appendix
  - Background of the Invention
  - Brief Summary of the Invention
  - Brief Description of the Drawings (if filed)
  - Detailed Description
  - Claim(s)
  - Abstract of the Disclosure
4. ☒ **Drawings(s) (35 USC 113) (Total Sheets 6)**
5. ☒ **Oath or Declaration (Total Pages 5)**
  - a. ☒ Newly Executed (Original or Copy)
  - b. ☐ Copy from a Prior Application (37 CFR 1.63(d))  
(for Continuation/Divisional with Box 17 completed)
    - i. ☐ **DELETIONS OF INVENTOR(S)** Signed statement attached deleting inventor(s) named in the prior application, see 37 CFR 1.63(d)(2) and 1.33(b).
    - c. ☐ Unsigned.
6. ☐ **Application Data Sheet. (37 CFR 1.76)**
7. ☐ **CD-ROM or CD-R in duplicate, large table or Computer Program (Appendix)**
8. ☐ **Nucleotide and/or Amino Acid Sequence Submission**  
(if applicable, all necessary)
  - a. ☐ Computer Readable Form (CRF)
  - b. ☐ Specification Sequence Listing on:
    - i. ☐ CD-ROM or CD-R (2 copies); or
    - ii. ☐ paper
  - c. ☐ Statement verifying identity of above copies

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# ACCOMPANYING APPLICATION PARTS

8. ☒ **Assignment Papers (cover sheet & documents(s))**
10. ☐ a. Separate 37 CFR 3.73(b) Statement (where there is an assignee)
- ☐ b. Power of Attorney
11. ☐ English Translation Document (if applicable)
12. ☐ a. Information Disclosure Statement (IDS)/PTO-1449
- ☐ b. Copies of IDS Citations
13. ☐ **Preliminary Amendment**
14. ☒ **Return Receipt Postcard (MPEP 503) (Should be specifically itemized)**
15. ☐ Certified Copy of Priority Document(s) (if foreign priority is claimed)
16. ☒ **Request and Certification under 35 U.S.C. 122(b)(2)(B)(i). Applicant must attach form PTO/SB/35 or its equivalent.**
17. ☐ Other: \_\_\_\_\_

**18A. If a CONTINUING APPLICATION, check appropriate box and supply the requisite information:**

☐ Continuation ☐ Divisional ☐ Continuation-in-part (CIP)  
**Of Prior Application No.:** \_\_\_\_\_ **Examiner** \_\_\_\_\_ **Group Art Unit** \_\_\_\_\_  
 (which is a ☐ continuation/ ☐ divisional/ ☐ CIP of prior application no. \_\_\_\_\_,  
 which is a ☐ continuation/ ☐ divisional/ ☐ CIP of prior application no. \_\_\_\_\_) (List entire chain of priority)

**Applicant(s):** Also include a Preliminary Amendment to amend the specification to claim priority.  
**For CONTINUATION AND DIVISIONAL APPS only:** The entire disclosure of the prior application, from which an oath or declaration is supplied under Box 5b, is considered a part of the disclosure of the accompanying continuation or divisional application and is hereby incorporated by reference. The incorporation can only be relied upon when a portion has been inadvertently omitted from the submitted application parts.

**18B. Statement under 37 CFR 3.73(b) for continuing application:**

The undersigned states that \_\_\_\_\_ (name of assignee) is the assignee of the entire right, title, and interest in the accompanying patent application by virtue of an assignment recorded in the Patent and Trademark Office at Reel No. \_\_\_\_\_ Frame No. \_\_\_\_\_ (or a copy of which is attached).

## 19. Correspondence Address

\_\_\_\_\_ Customer Number or Bar Code Label \_\_\_\_\_  
 or \_\_\_\_\_ (Insert Customer No. or Attach Bar Code Label here)

☒ Correspondence Address Below

NAME Michael J. Mallie  
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

ADDRESS 12400 Wilshire Boulevard  
Seventh Floor

CITY Los Angeles STATE California ZIP CODE 90025-1026

Country U.S.A. TELEPHONE (408) 720-8300 FAX (408) 720-9397

Name (PRINT/TYPE): Michael J. Mallie Registration No.: 36,591  
 Signature:  Date: August 22, 2001

## REQUEST AND CERTIFICATION UNDER 35 U.S.C. 122(b)(2)(B)(i)

First Named Inventor Guy Riddle

Title A METHOD FOR MEASURING NETWORK DELAY USING GAP TIME

Attorney Docket No. 004683.P005

I hereby certify that the invention disclosed in the attached application **has not and will not be** the subject of an application filed in another country, or under a multilateral agreement, that requires publication at eighteen months after filing. I hereby request that the attached application not be published under 35 U.S.C. 122(b).

August 22, 2001

Date



Signature

Michael J. Mallie

Typed or Printed Name

36,591

Registration No.

This request must be signed in compliance with 37 CFR 1.33(b) and submitted with the application **upon filing**.

Applicant may rescind this nonpublication request at any time. If applicant rescinds a request that an application not be published under 35 U.S.C. 122(b), the application will be scheduled for publication at eighteen months after the earliest claimed filing date for which a benefit is claimed.

If applicant subsequently files an application directed to the invention disclosed in the attached application in another country, or under a multilateral international agreement, that requires publication of applications eighteen months after filing, the applicant **must** notify the United States Patent and Trademark Office of such filing within forty-five (45) days after the date of filing of such foreign or international application. **Failure to do so will result in abandonment of this application (35 U.S.C. 122(b)(2)(B)(iii)).**

Send to: Assistant Commissioner for Patents, Washington, D.C. 20231

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**FEE TRANSMITTAL FOR FY 2001**

<b>TOTAL AMOUNT OF PAYMENT (\$)</b>	<b><u>750.00</u></b>
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**Complete if Known:**

Application No. Not yet assigned

**Filing Date** Not yet assigned

First Named Inventor Guy Riddle

Group Art Unit	Not yet assigned
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Examiner Name Not yet assigned

Attorney Docket No. 004683.P005

**METHOD OF PAYMENT** (check one)

1. [ X ] The Commissioner is hereby authorized to charge indicated fees and credit any over payments to:

**Deposit Account Number**      02-2666

**Deposit Account Name** \_\_\_\_\_

- [ X ] Charge Any Additional Fee Required Under 37 CFR 1.16 and 1.17**

- [ ] Applicant claims small entity status. See 37 CFR 1.27**

2.   X   Payment Enclosed:   X   Check  
           Credit Card  
           Money Order  
           Other

## FEE CALCULATION

**1. BASIC FILING FEE**

<u>Large Entity</u>		<u>Small Entity</u>			
Fee	Fee	Fee	Fee		
Code	(\$)	Code	(\$)	<u>Fee Description</u>	<u>Fee Paid</u>
101	710	201	355	Utility application filing fee	710.00
106	320	206	160	Design application filing fee	
107	490	207	245	Plant filing fee	
108	710	208	355	Reissue filing fee	
114	150	214	75	Provisional application filing fee	

**SUBTOTAL (1) \$ 710.00**

## 2. EXTRA CLAIM FEES

<b>2.    <u>EXTRA CLAIM FEES</u></b>				<b>Fee from</b>	
		<b><u>Extra Claims</u></b>		<b><u>below</u></b>	<b><u>Fee Paid</u></b>
<b>Total Claims</b>	<u>11</u>	<b>- 20** =</b>	<u>0</u>	<b>X</b>	<u>0</u>
<b>Independent Claims</b>	<u>3</u>	<b>- 3** =</b>	<u>0</u>	<b>X</b>	<u>0</u>
<b>Multiple Dependent</b>					<u>  </u>

**\*\*Or number previously paid, if greater; For Reissues, see below.**

<u>Large Entity</u>		<u>Small Entity</u>		
Fee	Fee	Fee	Fee	
Code	(\$)	Code	(\$)	<u>Fee Description</u>
103	18	203	9	Claims in excess of 20
102	80	202	40	Independent claims in excess of 3
104	270	204	135	Multiple dependent claim, if not paid
109	80	209	40	**Reissue independent claims over original patent
110	18	210	9	**Reissue claims in excess of 20 and over original patent

**SUBTOTAL (2) \$ 0**

# **FEE CALCULATION (continued)**

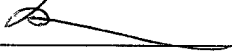
## **3. ADDITIONAL FEES**

<u>Large Entity</u>		<u>Small Entity</u>		<u>Fee Description</u>	<u>Fee Paid</u>
<u>Fee Code</u>	<u>Fee (\$)</u>	<u>Fee Code</u>	<u>Fee (\$)</u>		
105	130	205	65	Surcharge - late filing fee or oath	
127	50	227	25	Surcharge - late provisional filing fee or cover sheet	
139	130	139	130	Non-English specification	
147	2,520	147	2,520	For filing a request for ex parte reexamination	
112	920*	112	920*	Requesting publication of SIR prior to Examiner action	
113	1,840*	113	1,840*	Requesting publication of SIR after Examiner action	
115	110	215	55	Extension for reply within first month	
116	390	216	195	Extension for reply within second month	
117	890	217	445	Extension for reply within third month	
118	1,390	218	695	Extension for reply within fourth month	
128	1,890	228	945	Extension for reply within fifth month	
119	310	219	155	Notice of Appeal	
120	310	220	155	Filing a brief in support of an appeal	
121	270	221	135	Request for oral hearing	
138	1,510	138	1,510	Petition to institute a public use proceeding	
140	110	240	55	Petition to revive - unavoidable	
141	1,240	241	620	Petition to revive - unintentional	
142	1,240	242	620	Utility issue fee (or reissue)	
143	440	243	220	Design issue fee	
144	600	244	300	Plant issue fee	
122	130	122	130	Petitions to the Commissioner	
123	50	123	50	Processing fee under 37 CFR 1.17(q)	
126	180	126	180	Submission of Information Disclosure Stmt	
581	40	581	40	Recording each patent assignment per property (times number of properties)	40.00
146	710	246	355	For filing a submission after final rejection (see 37 CFR 1.129(a))	
149	710	249	355	For each additional invention to be examined (see 37 CFR 1.129(b))	
179	710	279	355	Request for Continued Examination (RCE)	
169	900	169	900	Request for expedited examination of a design application	
195	300	195	300	Publication fee for early, voluntary, or normal publication	
196	300	196	300	Publication fee for republication	
194	130	194	130	Request for voluntary publication or republication	
098	130	098	130	Processing fee under 37 CFR 1.17(i)	
091	1,240	091	1,240	Acceptance of unintentionally delayed claim for priority	
Other fee (specify) _____					
Other fee (specify) _____					

**SUBTOTAL (3) \$ 40.00**

\*Reduced by Basic Filing Fee Paid

### **SUBMITTED BY:**

**Typed or Printed Name:** Michael J. Mallie  
**Signature:**  **Date:** August 22, 2001  
**Reg. Number:** 36,591 **Telephone Number:** 408-720-8300

**WARNING:** Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

002230 9605660

## EXPRESS MAIL CERTIFICATE OF MAILING

"Express Mail" mailing label number: EL617183896US

Date of Deposit: August 22, 2001

I hereby certify that I am causing this paper or fee to be deposited with the United States Postal Service "Express Mail Post Office to Addressee" service on the date indicated above and that this paper or fee has been addressed to the Assistant Commissioner for Patents, Washington, D. C. 20231

Mara E. Brown

(Typed or printed name of person mailing paper or fee)

Mara E. Brown  
(Signature of person mailing paper or fee)

8/22/01  
(Date signed)

Serial/Patent No.: \*\*\*\* Filing/Issue Date: \*\*\*\*  
Client: Packeteer, Inc.  
Title: A METHOD FOR MEASURING NETWORK DELAY USING GAP TIME

BSTZ File No.: 004683.P005 Atty/Secty Initials: MJM/mzb  
Date Mailed: 08/22/01 Docket Due Date: \*\*\*

The following has been received in the U.S. Patent & Trademark Office on the date stamped hereon:

- |   |  |
|---|--|
| <input type="checkbox"/> Amendment/Response (____ pgs)  | <input checked="" type="checkbox"/> Express Mail No <u>EL617183896</u> <input checked="" type="checkbox"/> Check No <u>44803</u>         |
| <input type="checkbox"/> Appeal Brief (____ pgs) (in triplicate)                                    | <input type="checkbox"/> _____ Month(s) Extension of Time <u>US</u> Amt <u>\$710.00</u>  |
| <input checked="" type="checkbox"/> Application - Utility ( <u>26</u> pgs, with cover and abstract) | <input type="checkbox"/> Information Disclosure Statement & PTO 149 (____ pgs) <input checked="" type="checkbox"/> Check No <u>44807</u> |
| <input type="checkbox"/> Application - Rule 1 53(b) Continuation (____ pgs)                         | <input type="checkbox"/> Issue Fee Transmittal Amt <u>\$40.00</u>  |
| <input type="checkbox"/> Application - Rule 1 53(b) Divisional (____ pgs)                           | <input type="checkbox"/> Notice of Appeal  |
| <input type="checkbox"/> Application - Rule 1 53(b) CIP (____ pgs)                                  | <input type="checkbox"/> Petition for Extension of Time  |
| <input type="checkbox"/> Application - Rule 1 53(d) CPA Transmittal (____ pgs)                      | <input type="checkbox"/> Petition for _____  |
| <input type="checkbox"/> Application - Design (____ pgs)  | <input checked="" type="checkbox"/> Postcard   |
| <input type="checkbox"/> Application - PCT (____ pgs)   | <input type="checkbox"/> Power of Attorney (____ pgs)  |
| <input type="checkbox"/> Application - Provisional (____ pgs)                                       | <input type="checkbox"/> Preliminary Amendment (____ pgs)  |
| <input checked="" type="checkbox"/> Assignment and Cover Sheet                                      | <input type="checkbox"/> Reply Brief (____ pgs)  |
| <input checked="" type="checkbox"/> Certificate of Mailing  | <input type="checkbox"/> Response to Notice of Missing Parts   |
| <input checked="" type="checkbox"/> Declaration & POA ( <u>5</u> pgs)                               | <input type="checkbox"/> Small Entity Declaration for Indep Inventor/Small Business  |
| <input type="checkbox"/> Disclosure Docs & Orig & Copy of Inventor's Signed Letter (____ pgs)       | <input checked="" type="checkbox"/> Transmittal Letter, in <del>XXXXXX</del>   |
| <input checked="" type="checkbox"/> Drawings <u>6</u> # of sheets includes <u>7</u> figures         | <input checked="" type="checkbox"/> Fee Transmittal, in duplicate  |

☒ Other: Request and Certification under 35 U.S.C. 122(b)  
(2) (B) (i).